

alternative as a technology basis for setting limitations and standards.

EPA is also adding to the Docket information that describes changes to the computer implementation of the statistical methodology used to develop effluent limitations. The Agency plans to modify the computer implementation that was used for the proposal. While the statistical methodology remains unchanged, the revised computer program provides more reliable results in an interim step used to calculate the limitations. A memorandum describing the change is available in the Docket.

Dated: June 26, 1995.

**Robert Perciasepe,**

*Assistant Administrator for Water.*

[FR Doc. 95-16423 Filed 7-5-95; 8:45 am]

BILLING CODE 6560-50-P

#### 40 CFR Part 80

[FRL-5255-4]

##### **Announcement of Hearing Regarding Opt-Out of the Reformulated Gasoline Program: Jefferson County, Albany and Buffalo, New York; Twenty-Eight Counties in Pennsylvania; and Hancock and Waldo Counties in Maine, General Procedures for Future Opt-Outs**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of hearing.

**SUMMARY:** EPA is announcing a hearing to take place July 5, 1995, at 11:00 a.m., in Washington, DC. The Agency will hold a public hearing on the proposed opt-out of the reformulated gasoline program for designated New York, Pennsylvania, and Maine counties and on the general procedures for future opt-outs.

**DATES:** The hearing will be conducted on July 5, 1995, from 11:00 a.m. until 5:00 p.m.

**ADDRESSES:** The hearing will take place at the Hyatt Regency Washington on Capitol Hill, 400 New Jersey Avenue, NW, Washington, DC 20001, in the Ticonderoga Room.

Materials relevant to this notice have been placed in Docket A-94-68. The docket is located at the Air Docket Section, Mail Code 6102, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, in room M-1500 Waterside Mall.

Documents may be inspected from 8:00 a.m. to 4:00 p.m. A reasonable fee may be charged for copying docket material.

**FOR FURTHER INFORMATION CONTACT:** Mr. Mark Coryell, U.S. Environmental Protection Agency Office of Air and

Radiation, 401 M Street, SW (6406J), Washington, DC 20460, (202)233-9014.

**SUPPLEMENTARY INFORMATION:** In a separate action published in the **Federal Register** on June 14, 1995 (60 FR 31269), EPA proposed to remove Jefferson County and the Albany and Buffalo areas in New York; twenty-eight counties in Pennsylvania; and Hancock and Waldo counties in Maine from the list of covered areas identified in section 80.70 of the reformulated gasoline rule. This was based on requests from the Governors of New York, Pennsylvania and Maine that these areas opt out of this federal program. EPA also proposed general rules establishing the criteria and procedures for states to opt-out of the RFG program.

A copy of this notice and other relevant material are available on the OAQPS Technology Transfer Network Bulletin Board System (TTNBBS). The TTNBBS can be accessed with a dial-in phone line and a high-speed modem (PH# 919-541-5742). The parity of your modem should be set to none, the data bits to 8, and the stop bits to 1. Either a 1200, 2400, or 9600 baud modem should be used. When first signing on, the user will be required to answer some basic informational questions for registration purposes. After completing the registration process, proceed through the following series of menus: (M) OMS (K) Rulemaking and Reporting (3) Fuels (9) Reformulated gasoline

A list of ZIP files will be shown, all of which are related to the reformulated gasoline rulemaking process. Today's notice will be in the form of a ZIP file and can be identified by the following title: OPTOHEAR.ZIP. The June 14, 1995, proposal for opt-out of specific New York, Pennsylvania, and Maine RFG areas and the proposed general opt-out criteria is identified by the following title: OPTONPRM.ZIP. To download these files, type the instructions below and transfer according to the appropriate software on your computer: <D>ownload, <P>rotocol, <E>xamine, <N>ew, <L>ist, or <H>elp Selection or <CR> to exit: D filename.zip

You will be given a list of transfer protocols from which you must choose one that matches with the terminal software on your own computer. The software should then be opened and directed to receive the file using the same protocol. Programs and instructions for de-archiving compressed files can be found via <S>ystems Utilities from the top menu, under <A>rchivers/de-archivers. Please note that due to differences between the

software used to develop the document and the software into which the document may be downloaded, changes in format, page length, etc. may occur.

#### **List of Subjects in 40 CFR Part 80**

Environmental protection, Air pollution control, Fuel additives, Gasoline, and Motor vehicle pollution.

Dated: June 29, 1995.

**Mary D. Nichols,**

*Assistant Administrator Office of Air and Radiation.*

[FR Doc. 95-16606 Filed 6-30-95; 3:00 pm]

BILLING CODE 6560-50-M

#### 40 CFR Part 140

[FRL-5254-2]

RIN 2040-AC51

##### **Marine Sanitation Devices; Proposed Regulation to Establish Drinking Water Intake Zones in Two Sections of the Hudson River, New York State**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency is proposing to establish two Drinking Water Intake Zones in two portions of the Hudson River, in response to an application received by the New York State Department of Environmental Conservation (NYSDEC). Establishment of a Drinking Water Intake Zone serves to completely *prohibit the discharge of vessel sewage*, treated or untreated, to waters contained in that zone. Proposed Zone 1 is bounded by the Mohawk River on the south and Lock 2 on the north. It is approximately 8 miles long. Zone 2 is bounded on the south by the Village of Roseton on the western shore and bounded on the north by the southern end of Houghtaling Island. Zone 2 is approximately 60 miles long.

**DATES:** Comments on this proposed rule must be submitted to EPA on or before September 5, 1995. Public Hearings regarding this proposed rule will be held in New Paltz, New York on August 9, 1995 and in Waterford, New York on August 10, 1995. Comments may be submitted orally or in writing at either of these Public Hearings.

**ADDRESSES:** Written comments or requests for information may also be submitted to Patrick M. Durack, Chief, Water Permits and Compliance Branch (25th Floor), U.S. Environmental

Protection Agency Region 2, 290 Broadway, New York, New York, 10007-1866.

Public Hearings are scheduled at the following locations:

1. On August 9, 1995 at the offices of the New York State Department of Environmental Conservation at 21 South Putt Corners Road, New Paltz, NY from 6:30 p.m. to 8:30 p.m.

2. On August 10, 1995 at the Town of Waterford Civic Center, 35 Third Street, Waterford, NY from 6:30 p.m. to 8:30 p.m.

FOR FURTHER INFORMATION CONTACT: Philip Sweeney, 212-637-3765.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

In July 1992 the New York State Department of Environmental Conservation (NYSDEC) submitted an application for two reaches of the Hudson River to be designated by EPA as Drinking Water Intake Zones. Section 312(f)(4)(B) of Public Law 92-500, as amended by Public Law 95-217 and Public Law 100-4, (the "Clean Water Act"), states, "Upon application by a State, the Administrator shall, by regulation, establish a drinking water intake zone in any waters within such State and prohibit the discharge of sewage from vessels within that zone." Region II requested that authority for taking action in response to this application be delegated from the Administrator to the Regional Administrator. That authority was delegated on November 16, 1992.

Proposed Zone 1 is in the Hudson River/Champlain Canal and is bounded by the Mohawk River on the south and Lock 2 on the north. It is approximately 8 miles long. This zone is classified in the Official Compilation of Codes, Rules and Regulations of the State of New York (6 NYCRR) Part 941.6, Item Number 1, as one Class A segment. This classification was assigned in February 1967. Class A is the standard given to waters of New York for the protection of a source of water supply for drinking, culinary, or food processing purposes. There is one drinking water intake located in Zone 1, authorized for 2.0 million gallons per day, which serves the Town and Village of Waterford, Saratoga County, New York. This portion of the Hudson River adjoins Saratoga County on the west and Rensselaer County on the east.

Zone 2 is also in the Hudson River and is bounded on the south by the Village of Roseton on the western shore and on the north by the southern end of Houghtaling Island. This zone is classified in 6 NYCRR as two segments,

both Class A. The northern segment, which stretches from the southern end of Houghtaling Island (at light #72) to the southern end of Esopus Island (at light #28), was classified as Class B in 1966 and reclassified by the State of New York as Class A in 1969. The southern segment of Zone 2 stretches from the southern end of Esopus Island (at light #28) to the line formed by Roseton on the west shore and Low Point on the east shore in the general area of Chelsea, New York. This southern segment of Zone 2 was classified on October 15, 1966 as Class A. There are six authorized drinking water intakes in Zone 2. They are listed below:

Community served	Authorized taking in million gallons per day
Rhinebeck Village and Hamlet of Rhinecliff .....	1.0
Hyde Park Fire and Water District, Town of Hyde Park .....	6.0
City and Town of Poughkeepsie ....	16.0
New York City, Chelsea Emergency Pump Station .....	100.0
Port Ewan Water District, Town of Esopus .....	1.0
Highland Water District .....	3.0

Authority to enforce the prohibition of vessel sewage discharges lies with the U.S. Coast Guard, which may by agreement utilize enforcement officers of the U.S. Environmental Protection Agency, other Federal agencies, or States, in accordance with § 312(k) of the Clean Water Act. Both the Federal and New York State governments will take a role in implementation and enforcement of the proposed prohibition in the two drinking water intake zones. The prohibition will take effect sixty (60) days after notice of the final regulation. This regulation will be issued after consideration of all public comments received as a result of this notice. At the time of final rulemaking, EPA will publish a notice on the implementation plan for this prohibition. A major focus of the implementation plan for this prohibition will be public education, specifically boater education. For the purposes of boater understanding and compliance, it is worthwhile to note landmarks which approximate the boundaries of the drinking water intake zones, which are in view of the Hudson River boater. For Zone 1, the Mohawk River and Lock #2 are visible landmarks. For Zone 2, the northern border is at the southern end of Houghtaling Island. The Newburgh-Beacon Bridge, which is

south of the southern zone border, is an obvious landmark for the southern end of Zone 2. All of Zone 2 lies between Houghtaling Island and the Newburgh-Beacon Bridge, and these landmarks are therefore useful markers for boaters.

##### II. Compliance with Other Acts and Orders

###### A. Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is significant and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may:

- (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, or tribal governments or communities;
- (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;
- (3) materially alter the budgetary impact or entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or
- (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

It has been determined that this rule is not a "significant regulatory action" under the terms of Executive Order 12866 and is therefore not subject to OMB review.

###### B. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 6501 *et seq.*, whenever an agency is developing regulations, it must prepare and make available for public comment the impact of the regulations on small entities (i.e., small businesses, small organizations, and small governmental jurisdictions). A regulatory flexibility analysis is not required if the head of the agency certifies that the rule will not have significant economic effect on a substantial number of small entities. EPA policy dictates that an Initial Regulatory Flexibility Analysis (IRFA) be prepared if the proposed action will have any effect on any small entity. An abbreviated IRFA can be prepared depending on the severity of the economic impact and the relevant statute's allowance of alternatives.

The Agency has prepared an IRFA for this proposed rule. In summary, the

IRFA describes that a prohibition of vessel sewage discharge in these two zones will apply to any commercial or recreational vessel with on-board toilet facilities that navigates the Hudson River in the described areas. Only commercial vessels are considered small entities with respect to the Regulatory Flexibility Act. All vessels are already subject to the EPA Marine Sanitation Device Standards at 40 CFR Part 140 and the U.S. Coast Guard Marine Sanitation Device Standards at 33 CFR Part 159. These standards prohibit the overboard discharge of vessel sewage in any freshwater lakes, freshwater reservoirs, or other freshwater impoundments whose inlet or outlet is such as to prevent the ingress or egress by vessel traffic subject to this regulation, or in rivers not capable of being navigated, (40 CFR 140.3). In other waters, including the Hudson River, vessels with on-board toilets shall have U.S. Coast Guard certified marine sanitation devices which either retain sewage or treat sewage to the applicable standards. There are three types of marine sanitation devices certified by the U.S. Coast Guard. Type I and Type II devices are both flow-through devices that treat sewage through maceration and disinfection. Type III devices are holding tanks. Vessel sewage is held in tanks until it can be properly disposed of at a pump-out facility, or it may be discharged untreated outside of U.S. territorial waters. Most Type III devices are equipped with a discharge option, in the form of a Y-valve, which allows the boater to discharge the sewage directly overboard, which is legal only outside of U.S. territorial waters. Since the Hudson River is a U.S. territorial water, the discharge of untreated vessel sewage is prohibited under the existing regulations. Today's proposal, therefore, will not change the legal requirements for boats with Type III devices. Consequently, the only small entities affected by this proposed rule will be commercial boats with on-board toilets with a Type I or II marine sanitation device which use these approximately 68 miles of the Hudson River. The proposal will affect these vessels by requiring retention and pump-out of their treated sewage, or discharge outside of the designated zones. This proposal requires no reporting or recordkeeping activity on the part of small entities. Because of the nominal cost associated with purchase of portable Type III devices and use of pump-out facilities, and the option to discharge sewage treated in accordance with Federal standards outside of the zones, this proposed rule imposes no

significant economic impact on a substantial number of small entities.

As mentioned above, NYSDEC submitted the application for these proposed Drinking Water Intake Zones under Section 312(f)(4)(B) of the Clean Water Act—the section that sets national standards for discharges of vessel sewage and prohibits the states or political subdivision thereof from adopting or enforcing any other regulation or standard for vessel sewage discharges. There are several exceptions to this prohibition. Section 312(f)(4)(B) is one of these exceptions. This section was added to the Clean Water Act in 1977 in order to provide the states with an opportunity to have a more stringent standard (i.e., a prohibition) for drinking water intake areas. The Act states, “Upon application by a State, the Administrator shall, by regulation, establish a drinking water intake zone in any waters within such State and prohibit the discharge of sewage from vessels within that zone.” EPA interprets this statement to limit its discretion in establishing drinking water intake zones once a state has submitted an application. The statute in this case precludes the Agency from considering other regulatory options, thus limiting EPA's flexibility in implementing this portion of the Act.

#### C. Paperwork Reduction Act

The Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, is intended to minimize the reporting and recordkeeping burden on the regulated community, as well as minimize the cost of Federal information collection and dissemination. In general, the Act requires that information requests and recordkeeping requirements affecting 10 or more non-Federal respondents be approved by the Office of Management and Budget. Since today's rule would not establish or modify any information and recordkeeping requirements, it is not subject to the requirements of the Paperwork Reduction Act.

#### D. Unfunded Mandates Reform Act of 1995

Under Section 202 of the Unfunded Mandates Reform Act of 1995 (the Act), P.L. 104-4, which was signed into law on March 22, 1995, EPA generally must prepare a written statement for rules with Federal mandates that may result in estimated costs to State, local, and tribal governments in the aggregate, or to the private sector, of \$100 million or more in any one year. When such a statement is required for EPA rules, under Section 205 of the Act EPA must identify and consider alternatives, including the least costly, most cost-

effective or least burdensome alternative that achieves the objectives of the rule. EPA must select that alternative, unless the Administrator explains in the final rule why it was not selected or it is inconsistent with law. Before EPA establishes regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must develop under Section 203 of the Act a small government agency plan. The plan must provide for notifying potentially affected small governments, giving them meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising them on compliance with the regulatory requirements.

EPA has determined that this rule does not include a Federal mandate that may result in estimated annualized costs of \$100 million or more to either State, local, and tribal governments in the aggregate, or to the private sector. All vessels that are equipped with marine sanitation devices and that navigate the Hudson River are already subject to the EPA Marine Sanitation Device Standards at 40 CFR Part 140 and the U.S. Coast Guard Marine Sanitation Device Standards at 33 CFR Part 159. These standards prohibit the overboard discharge of untreated vessel sewage in the Hudson River and require that vessels with on-board toilets shall have U.S. Coast Guard certified marine sanitation devices which either retain sewage or treat sewage to the applicable standards. There are three types of marine sanitation devices certified by the U.S. Coast Guard. Only those vessels that have either one of the two types of certified flow-through devices will be affected by this proposed rule. Those vessels affected by this rule will either retain and pump out treated sewage or discharge outside of the designated zones. Any costs associated with those activities will be minimal and it is therefore estimated that the annualized costs to State, local and tribal governments in the aggregate, or to the private sector, will not be or exceed \$100 million. Thus, today's rule is not subject to the requirements of Section 202 and 205 of the Act. Because the rule contains no regulatory requirements that might significantly or uniquely affect small governments, it also is not subject to the requirements of Section 203 of the Act. Small governments are subject to the same requirements as other entities whose duties result from this rule and they have the same ability as other entities to retain and pump out treated

sewage or discharge outside of the designated zones.

#### List of Subjects in 40 CFR Part 140

Environmental protection; Sewage disposal, Vessels.

Dated: June 21, 1995.

**William J. Muszynski,**

*Acting Regional Administrator.*

For the reasons set out in the preamble, 40 CFR part 140 is proposed to be amended as follows:

#### PART 140—[AMENDED]

1. The authority citation for part 140 continues to read as follows:

**Authority:** Sec. 312, as added Oct. 18, 1972, Pub. L. 92–500, sec. 2, 86 Stat. 871. Interpret or apply sec. 312(b)(1), 33 U.S.C. 1322(b)(1).

2. In § 140.4 paragraph (b)(1) is amended by designating the undesignated text after the colon as paragraph (b)(1)(i) and by adding paragraph (b)(1)(ii) to read as follows:

#### § 140.4 Complete prohibition.

\* \* \* \* \*

(b)\*\*\*

(1)\*\*\*

(ii) Two portions of the Hudson River in New York State, the first of which is bounded by the Mohawk River on the south and Lock 2 on the north, as described in item 1 of 6 New York Code of Rules and Regulations (NYCRR) Part 941.6, and the second of which is bounded on the north by the southern end of Houghtaling Island and on the south by a line between the Village of Roseton on the western shore and Low Point on the eastern shore, as described in Items 2 and 3 of 6 NYCRR Part 858.4.

[FR Doc. 95–16418 Filed 7–3–95; 8:45 am]

BILLING CODE 6560–50–P

#### 40 CFR Part 180

[PP 5E4425/P619; FRL–4962–5]

RIN 2070–AC18

#### Imidacloprid; Pesticide Tolerance

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA proposes to establish a tolerance for residues of the insecticide (1-[6-chloro-3-pyridinyl)methyl]-N-nitro-2-imidazolidinimine (referred to in this document as imidacloprid) and its metabolites in or on the raw agricultural commodity dried hops. The Interregional Research Project No. 4 (IR-4) requested pursuant to the Federal

Food, Drug and Cosmetic Act (FFDCA) the proposed regulation to establish a maximum permissible level for residues of the insecticide.

**DATES:** Comments identified by the document control number, [PP 5E4425/P619], must be received on or before August 4, 1995..

**ADDRESSES:** By mail, submit written comments to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1132, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202. Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as “Confidential Business Information”. CBI should not be submitted through e-mail. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1132 at the address given above, from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number [PP 5E4425/P619]. Electronic comments on this proposed rule may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found in the “SUPPLEMENTARY INFORMATION” section of this document.

**FOR FURTHER INFORMATION CONTACT:** By mail: Hoyt L. Jamerson, Registration Division (7505W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460. Office location and telephone number: Sixth Floor, Crystal Station #1, 2800 Jefferson Davis Highway, Arlington, VA 22202, (703)-308-8783; e-mail: jamerson.hoyt@epamail.epa.gov.

**SUPPLEMENTARY INFORMATION:** The Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petition (PP) 5E4425 to EPA on behalf of the Agricultural Experiment Stations of Oregon and Washington. This petition requests that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(e), amend 40 CFR 180.472 by establishing a tolerance for residues of the insecticide imidacloprid (1-[(6-chloro-3-pyridinyl)methyl]-N-nitro-2-imidazolidinimine) and its metabolites containing the 6-chloropyridinyl moiety, all expressed as 1-[(6-chloro-3-pyridinyl)-methyl]-N-nitro-2-imidazolidinimine, in or on the raw agricultural commodity dried hops at 6 parts per million (ppm).

In the **Federal Register** of June 28, 1994 (59 FR 33204), EPA established a time-limited tolerance for residues of imidacloprid on dried hops at 3.0 ppm. The imidacloprid tolerance for dried hops was established to expire on June 28, 1995, to allow IR-4 sufficient time to conduct additional residue field trials in support of a permanent tolerance for this use. Subsequently, IR-4 submitted the data from the residue field trials and petition 5E4425 in support of a permanent tolerance, but EPA extended the time-limited tolerance to expire on June 28, 1996 (60 FR 24784, May 10, 1995), when it became apparent that the IR-4 proposed tolerance could not be established prior to the June 28, 1995 expiration date. The IR-4 residue data have been reviewed and determined to be adequate to support a permanent tolerance for imidacloprid on dried hops at 6 ppm.

The toxicological data considered in support of the proposed tolerance include:

1. A 1-year chronic feeding study in dogs fed diets containing 0, 200, 500, or 1,250/2,500 ppm (average intake was 0, 6.1, 15, or 41/72 milligrams (mg)/kilogram (kg)/day) with a noobserved-effect level of 1,250 ppm based on increased plasma cholesterol and liver cytochrome P-450 levels in dogs at the 2,500-ppm dose level. The high dose was increased to 2,500 ppm (72 mg/kg/day) from week 17 onward due to lack of toxicity at the 1,250-dose level.

2. A 2-year feeding/carcinogenicity study in rats fed diets containing 0, 100, 300, 900, or 1,800 ppm with a NOEL for chronic effects at 100 ppm (5.7 mg/kg/day in males, 7.6 mg/kg/day in females) that included decreased body weight gain in females at 300 ppm (24.9 mg/kg/day) and above; and increased thyroid